

Department of State

652.237-73

652.237-72 Observance of Legal Holidays and Administrative Leave.

As prescribed in 637.110(c), insert the following clause:

OBSERVANCE OF LEGAL HOLIDAYS AND ADMINISTRATIVE LEAVE (APR 2004)

(a) The Department of State observes the following days as holidays:

New Year's Day
Martin Luther King's Birthday
Washington's Birthday
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Christmas Day

Any other day designated by Federal law, Executive Order, or Presidential Proclamation.

(b) When any such day falls on a Saturday or Sunday, the following Monday is observed. Observance of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(c) When the Department of State grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the contracting officer or his/her duly authorized representative.

(d) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided. If services are provided for portions of days, appropriate adjustment will be made by the contracting officer to ensure that the contractor is compensated for services provided.

(e) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any "Excusable Delays"

clause of this contract, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the contractor's accounting policy.

(End of clause)

[59 FR 66772, Dec. 28, 1994, as amended at 64 FR 43634, Aug. 11, 1999; 69 FR 19343, Apr. 13, 2004]

652.237-73 Statement of Qualifications for Preference as a U.S. Person.

As prescribed in 637.110(d), insert the following provision:

STATEMENT OF QUALIFICATIONS FOR PREFERENCE AS A U.S. PERSON (APR 2004)

(a) This solicitation is subject to Section 136 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864). The Act encourages the participation of United States persons and qualified United States joint venture persons in the provision of local guard services overseas, and provides for a preference for eligible offers.

(b) *Definitions.* As used in this provision—

Eligible offer means an offer that (1) is otherwise responsive to the solicitation; and (2) contains a fully prepared Statement of Qualifications (see paragraph (d) of this provision), which upon review is determined by the Government to meet the requirements of Section 136 for assignment of preference as a U.S. person.

Preference means subtraction by the Government of ten percent (10%) from the total evaluated price of an offer.

U.S. person means a company, partnership, or joint venture that the Government determines, after consideration of all available information, including but not limited to that provided by the offeror in response to the solicitation, to be qualified for assignment of preference pursuant to Section 136.

(c) *Representation.* The offeror represents as part of its offer that it is, is not eligible for preference as a U.S. person. [Complete a Statement of Qualifications for Purposes of Obtaining Preference as a U.S. Person if the offeror represents that it is eligible. See paragraph (d) of this provision.]

Warning: Any material misrepresentation made in the Statement of Qualifications may be the basis for disqualification of an offeror and reference for consideration of suspension or debarment or for prosecution under Federal law (cf. 18 U.S.C. 1001). The